REMARKS

Claim 6 has been amended to correct the dependency error therein. No additional amendments, cancellations, or additions have been made to the present claims. Thus, claims 1, 3-11, 13-28, and 30-32 remain pending in the case. Further examination and reconsideration of the presently claimed application is respectfully requested.

Objection to the Claims

Claim 6 was objected to for an informality. In response thereto, claim 6 has been amended to correct its dependency. Accordingly, Applicants respectfully request removal of this objection.

Section 102 Rejections

Claims 1, 3-11, 13-28, and 30-32 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,987,376 to Olsen et al. (hereinafter "Olsen"). Claims 1, 3-11, 13-28, and 30-32 were also rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application No. 2002/0083134 to Bauer, Jr. et al. (hereinafter "Bauer"). In addition, claims 1 and 3-8 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,748,420 to Quatrano et al. (hereinafter "Quatrano"). The standard for "anticipation" is one of fairly strict identity. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987), MPEP 2131. More specifically, "all words in a claim must be considered when judging the patentability of that claim against the prior art." *In re Wilson* 424 F.2d. 1382 (CCPA 1970). Olsen and Quatrano each fail to disclose all limitations of the currently pending claims, some distinctive limitations of which are set forth in more detail below. In addition, Bauer is not available as prior art against the current application.

The newly cited reference to Bauer is not available as prior art against the current application. To expedite prosecution, a declaration under 37 C.F.R. § 131 is filed with this response. The declaration establishes an invention date prior to December 22, 2000 for the subject matter of the current claims. Because Bauer was filed on December 22, 2000, it is not available as prior art under 35 U.S.C. § 102(e) against these claims.

Olsen and Quatrano each fail to anticipate a method for establishing a computer-based communications session, where the method includes determining the availability of a potential participant in the communications session, and where the step of determining comprises retrieving availability information for the potential participant from a data structure. Independent claim 1 recites, in part:

> A method of establishing a computer-based communications session involving a user of a computer, said method comprising: determining the availability of a potential participant in the communications session, wherein said determining comprises retrieving availability information for the participant from a data structure...

Independent claims 13 (a system), 19 (a computer-usable carrier medium), 23 (a computer-usable carrier medium) and 28 (a method) also recite limitations on determining the availability of a potential participant in a communications session.

The presently claimed case provides systems and methods for determining the availability of potential participants for a communications session. In some embodiments, participant availability may be determined by retrieving availability information for the potential participant(s) from a data structure, which stores such information. For example, and as shown in Fig. 3 of the present application, availability information retrieved from a data structure may indicate whether a user or participant is available for communication using email (e.g., yes) or instant messaging (e.g., no). In addition, and as set forth in the present Specification, a "user" or "participant" may be generally defined as a person who seeks to initiate, or be involved in, a computer-based communications session. In light of the teachings provided by the Specification, one skilled in the art would readily understand that a "potential participant" is one that could be involved -- but is not yet involved -- in a computer-based communications session. For this reason, participant availability is generally determined before the participant joins the communication session. See, e.g., Specification, page 2, lines 18-30; page 4, lines 27-29; page 17, lines 15-27; page 23, line 17 to page 24, line 2; page 24, line 18 to page 25, line 2; and Figs. 8-9.

Unlike the presently claimed case, Olsen and Quatrano are not interested in determining the availability of potential participants in a computer-based communications session. As such, Olsen and Quatrano cannot be relied upon to teach or suggest that participant availability may be determined by retrieving availability information from a data structure.

Olsen discloses "a system and method for implementing an efficient, network based, distributed processing environment that is capable of hosting an application session in which multiple application clients participate." (Olsen, column 3, lines 64-67). For example, Olsen discloses that "an 'application session' is invoked by a host client. The host client admits new network connected clients (i.e., a computer executing the particular application) into the application session, and is also responsible for insuring that a shared set of application data is properly distributed amongst each of the application clients." (Olsen, column 2, line 64 to column 3, line 3). The system and method of Olsen is described in the context of a computer game application, such that the host client is responsible for admitting new clients (e.g., game participants) into the computer game session and ensuring that each participant receives up-to-date gaming information by synchronizing the exchange of application data between the networked clients. (See, e.g., Olsen, column 6, lines 1-23).

Statements in the Office Action suggest that Olsen provides teaching for the presently claimed limitation of "determining the availability of a potential participant in the communications session" (Office Action, page 3). In particular, the Examiner suggests that in "col. 6, lines 1-15, Olsen teaches application data that reflects the current state of the session, including current participants" (Office Action, page 3, emphasis added). The Examiner also suggests that "Olsen discloses ... said determining comprises retrieving availability information for the participant from a data structure (Olsen, col. 7, lines 45-60)" (Office Action, page 3). The Applicant disagrees. As described in more detail below, the "application data" disclosed by Olsen is not used to determine the availability of a potential participant in a communications session, as recited in present claims 1, 13, 19, 23, and 28.

In column 6, lines 1-15, Olsen discloses that each of the clients may have access to some type of data storage, upon which is stored "application data." In the context of a computer game application, Olsen discloses that the application data may include "data that reflects the current state of the game, such as identification of current player/participants and their respective locations, player positions within the game environment, player scores/standings, player characteristics, game environment characteristics, etc." However, Applicants contend that application data, which reflects the current state of the game, does not and cannot be used to determine the availability of a potential participant in the game. Therefore, although the "application data" of Olsen may be stored (presumably in a data structure), the "application data" of Olsen is not used (and cannot be used) to determine the availability of a potential participant in a communications session, as presently claimed.

Statements in the Office Action further suggest that the "system player ID" mentioned in column 7, lines 45-60 of Olsen may be used to provide teaching for the presently claimed "availability information", which is stored in a data structure and retrieved to determine participant availability (Office Action, page 3). The Applicant disagrees, for at least the reasons set forth below.

In column 7, lines 45-60, Olsen discloses how a host computer may permit a new client into an application session by performing a series of functional steps beginning at program step 42, as shown in Fig. 2B of Olsen. At step 42, Olsen teaches that the host computer "assigns a unique identifier, referred to in the preferred embodiment as the 'system player ID,' to the client that is requesting admission into the applications session. The system player ID is an identifier that uniquely identifies that particular client within the particular application session; each client within the session will have its own system player ID." (Olsen, column 7, lines 47-53).

Unlike the presently claimed case, however, the "system player IDs" disclosed by Olsen are not stored within a data structure, so that they may be later retrieved to determine participant availability. Although the "unique system player ID" of Olsen is placed " within a 'name table' that is present at the host client's storage area", Olsen specifically states that "the name table is a predefined data structure... which contains the unique identifiers (system player IDs) for all of the clients that are currently participating in the application session." (Olsen, column 7, line 65 to column 8, line 6, emphasis added). Although the "system player IDs" of Olsen may be stored within a data structure, the "system player IDs" of Olsen cannot be used to determine the availability of a potential participant in a communications session, since they are specifically used to identify current participants.

In other words, the "application data" and "system player IDs" disclosed by Olsen are not equivalent to the "availability information," which the presently claimed case stores in a data structure, so that such information may be later retrieved to determine the availability of a potential participant in a communications session. As set forth in previous Responses, and in more detail above, Olsen simply fails to disclose the presently claimed step for "determining the availability of a potential participant in a communications session," where such determining includes retrieving availability information for the potential participant from a data structure. As a consequence of such failure, Olsen cannot be relied upon to anticipate all limitations of present claims 1, 13, 19, 23. and 28.

The anticipatory rejections of claims 1 and 3-8 over Quatrano will now be addressed.

With regard to present claim 1, statements in the Office Action suggest that teaching can be found in Quatrano for the presently claimed limitation of "determining the availability of a potential participant in the communications session, where said determining comprises retrieving availability information for the participant from a data structure." (Office Action, page 9). In particular, the Examiner suggests that in column 5, lines 55-57, "Quantrano [sic] discloses creating shared session identification information for sessions including multiple users" (Office Action, pages 9-10). However, and as described in more detail below, the "shared session identification information" of Quatrano is not used (and cannot be used) for determining the availability of a potential participant in a communications sessions, as recited in present claim 1.

In the above-mentioned passage cited by the Examiner, Quatrano discloses a system that "provides the shared session between the web server and the application by creating shared session identification information which can include, for example, shared session cookies as well as shared session participant identification information for each participant computer user who accesses the application via the shared session." (Quatrano, column 5, lines 55-61). Therefore, like Olsen, the shared session information of Quatrano includes participant identification information for users currently accessing the application via the shared session. The shared session information of Quatrano does not, however, include information that may be used to determine the availability of a potential participant in the shared session. Since Quatrano fails to determine the availability of potential participants, Quatrano cannot be relied upon to determine such availability by retrieving availability information for potential participants from a data structure. As a consequence, Quatrano cannot be relied upon to anticipate all limitations of present claim 1.

Olsen fails to anticipate a method that obtains user (or participant) identifiers for identifying the user to each of a plurality of dissimilar communications applications available for use in a communications session. Independent claim 9 recites:

> A method of configuring computer-based communication, said method comprising: obtaining availability information indicating the availability of a user of the computer for communication using each of a plurality of dissimilar communications applications; and obtaining respective user identifiers effective to identify the user to each of the plurality of dissimilar communications applications.

The presently claimed case provides a system, computer-usable carrier medium and method for establishing a computer-based communications session, where the method includes obtaining availability information indicating the availability of a user of the computer for communication using each of a plurality of dissimilar communications applications. In one embodiment, the plurality of dissimilar communications applications may be selected from "any of various application programs implementing computer-based communications techniques such as email, instant messaging, IP telephone, file transfer protocol (FTP), and so forth." (Specification, page 15, lines 4-7).

Unlike the presently claimed case, Olsen fails to even disclose the possibility of communicating via more than one dissimilar communications application. However, statements in the Office Action suggest that teaching for the presently claimed step of "obtaining respective user identifiers effective to identify the user to each of the multiple communication applications" can be found in Olsen. For example, the Examiner suggests that "Olsen discloses providing availability information to all users using multiple dissimilar applications" in column 5, lines 50-67 and in column 6, lines 1-5 of Olsen. The Applicant respectfully disagrees, for at least the reasons set forth in more detail below.

In the cited passages, Olsen describes his data synchronization and distribution system in the context of a program API, which can be invoked to provide "the appropriate interface between the application and the network, thereby establishing the client-to-client application session." (Olsen, column 5, lines 45-50). As one example, Olsen suggests that the synchronous exchange of application data between networked clients could be applied to a specific type of computer application, such as computer games. As pointed out by the Examiner, Olsen also suggests that "a number of computer applications could take advantage of this synchronized exchange of application data between network connected clients." (Olsen, column 5, lines 50-55).

However, the Applicants contend that Olsen does not and cannot provide teaching or suggestion for the current claim limitations by merely suggesting that a number of computer applications could take advantage of the synchronous data exchange methods disclosed therein. In other words, Olsen's suggestions do not and cannot provide teaching for "obtaining respective user identifiers effective to identify the user to each of a plurality of dissimilar communications applications," as recited in claim 9, or for "indicating the availability of a potential participant for each of a plurality of dissimilar communications applications," as recited in claim 13 (and discussed below).

In fact, Olsen fails to even suggest the possibility for using more than one dissimilar communications application (e.g., email, instant messaging, IP telephone, and/or FTP, etc.) within a communications session. For example, unlike the presently claimed case, Olsen never suggests that the communications application could be changed during the course of a communications session (e.g., from a computer game to instant messaging). Therefore, in addition to explicit lack of teaching, Olsen fails to provide motivation or even desirability for "obtaining respective user identifiers effective to identify the user to each of a plurality of dissimilar communications applications," as recited in present claim 9. As a consequence, Olsen fails to anticipate all limitations of present claim 9.

Olsen fails to anticipate a system including a means for displaying participant availability information on a display screen, wherein the participant availability information indicates the availability of a potential participant for each of a plurality of dissimilar communications applications. Independent claim 13 recites:

> A system for computer-based communication, said system comprising: a display screen; means for determining the availability of a potential participant in a computer-based communications session; and means for, according to the determined availability, displaying participant availability information on the display screen, wherein the displayed information indicates the availability of the potential participant for communication using each of a plurality of dissimilar communications applications available for use in the communications session.

As noted above, Olsen fails to disclose the possibility for using a plurality of dissimilar communications applications within a communications session. In addition, Olsen fails to disclose a means for determining the availability of a potential participant in a communications session. For at least these reasons, Olsen cannot be relied upon to provide teaching or suggestion for displaying participant availability information on a display screen, where the participant availability information indicates the availability of a potential participant for each of a plurality of dissimilar communications applications. As a consequence, Olsen fails to anticipate all limitations of present claim 13.

For at least the reasons set forth above, Olsen and Quatrano fail to anticipate all limitations of independent claims 1, 9, 13, 19, 23, and 28. In addition, Bauer is not available as prior art against the present claims. Therefore, claims 1, 9, 13, 19, 23, and 28, as well as claims dependent therefrom, are asserted to be patentably distinct over the cited art. Accordingly, removal of this rejection is respectfully requested.

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PAGE 13/24 * RCVD AT 7/19/2005 4:08:36 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/25 * DNIS:2738300 * CSID:512 703 1250 * DURATION (mm-ss):14-22

CONCLUSION

This response constitutes a complete response to all issues raised in the final Office Action mailed May 19, 2005. In view of the remarks traversing the rejections, Applicants assert that pending claims 1, 3-11, 13-28, and 30-32 are in condition for allowance. If the Examiner has any questions, comments, or suggestions, the undersigned attorney earnestly requests a telephone conference.

No fees are required for filing this amendment; however, the Commissioner is authorized to charge any additional fees, which may be required, or credit any overpayment, to deposit account number 09-0447.

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